

## **REMARKS**

Claims 23 – 25, 27 – 33, 39 and 40 are pending in the present application. Claims 23 and 27 are independent. The status of the claims is unchanged since the Amendment submitted by Applicant on March 23, 2009. Applicant respectfully requests entry and consideration of the present Response, for at least the purpose of putting the present application in better condition for appeal.

On July 2, 2009, Applicant submitted an Information Disclosure Statement (IDS) in the present application. Applicant respectfully requests that the Examiner return an initialed copy of the IDS in the next communication.

Claim 23 has been rejected under 35 U.S.C. §102(e) as being anticipated U.S. Patent No. 6,175,055 to Schone et al. (hereinafter “Schone”).

Claim 23 is directed to a method of incorporating zeolite in a tampon for suppression or removal of menstrual odors. The method comprises distributing zeolite granules on a first non-woven web, and bonding a second non-woven web to the first non-woven web so that the zeolite granules are sandwiched therebetween. The zeolite granules are the sole odor-absorbing materials incorporated into the tampon.

In the “Response to Arguments” section on p. 2, the Office Action states that Schone teaches zeolite as a “suitable, though not preferred, odor control material.” Even assuming, *arguendo*, that this is true, Schone fails to disclose the method of claim 23. The passage of Schone cited by the Office Action is a background discussion of zeolite, and does not disclose at all how zeolite would be incorporated in a tampon. There is no discussion of distributing zeolite granules on a first non-woven web, and bonding a second non-woven web to the first non-woven web so that the zeolite granules are sandwiched therebetween, wherein the zeolite granules are the sole odor-absorbing materials incorporated into the tampon, as required in claim 23. Schone only discusses incorporating an odor control material between two layers of cellulose tissue

wherein the odor control material is at least 50% bentonite, and not wherein zeolite is the sole odor-absorbing material incorporated into the tampon, as required by claim 23.

Therefore, claim 23 is patentable over Schone. Applicant respectfully requests that the rejection of claim 23 be reconsidered and withdrawn.

Claims 24, 25 and 40 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schone in view of U.S. Patent No. 5,165,152 to Kramer et al. (hereinafter "Kramer").

As discussed in the Amendment of March 23, 2009, claims 24, 25, and 40 all depend from claim 23. Kramer fails to cure the deficiency of Schone to disclose or suggest the method of claim 23, and is not relied on by the Office Action to do so. Therefore, claims 24, 25, and 40 are patentable over the cited combination of Schone and Kramer. Applicant respectfully requests that the rejection of claims 24, 25, and 40 be reconsidered and withdrawn.

Claims 27-29 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schone in view of Kramer, and further in view of U.S. Patent No. 4,826,497 to Marcus et al. (hereinafter "Marcus").

Independent claim 27 is directed to a method of incorporating zeolite in a tampon for suppression or removal of menstrual odors. The method comprises, *inter alia*, distributing zeolite granules on a first non-woven web. The zeolite granules are one or more natural zeolite granules, and are the sole odor-absorbing materials incorporated into the tampon.

As discussed above, the cited combination of Schone and Kramer fails to disclose or suggest zeolite granules that are the sole odor-absorbing materials incorporated into a tampon, as required by claim 27. Again, as previously discussed in the Amendment of March 23, 2009, Marcus fails to cure this deficiency.

Furthermore, claim 27 requires that the zeolite be one or more natural zeolites. Applicant respectfully re-asserts the argument put forth in the Amendment of March 23, 2009, that Schone clearly does not contemplate natural zeolites at all. In distinguishing the bentonite clays discussed therein, Schone states that "in contrast to carbon black or zeolite, bentonite is a naturally occurring mineral." (col. 1, l. 62-63, emphasis added) Schone, therefore, while teaching natural bentonite clays, only discloses zeolites that are not natural, in contrast to the requirements of claim 27. The Office Action failed to address this deficiency of Schone.

Kramer, as stated above, does not disclose any odor-absorbent materials at all, let alone the natural zeolites required in claim 27. Marcus discloses natural zeolites such as clinoptilolite, but only as one of the disfavored materials of the prior art. (col. 3, l. 32-33) Marcus states that the preferred zeolites for the invention disclosed therein are synthetic. (col. 5, l. 15-48) Therefore, Marcus expressly teaches away from using the one or more natural zeolites required in claim 27, and can not be combined with Schone and Kramer in the way espoused by the Office Action.

Therefore, for at least the reasons that the cited combination of Schone, Kramer, and Marcus fails to disclose or suggest zeolite as the sole odor-absorbing material incorporated into a tampon, and because the cited combination also teaches away from using natural zeolites, claim 27 is patentable over Schone, Kramer, and Marcus under 35 U.S.C. 103(a). Claims 28 and 29 depend from claim 27, and are also patentable for at least the reasons provided above with respect to claim 27. Applicant respectfully requests that the rejection of claims 27-29 be reconsidered and withdrawn.

Claims 30-33 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Schone in view of Kramer and Marcus, and further in view United States Patent No. 6,030,608, to Hoyes et al., hereinafter "Hoyes."

Claims 30-33 depend from claim 27. As stated in the Amendment of March 23, 2009, Hoyes fails to cure the deficiency of Schone, Kramer, and Marcus to disclose or suggest the method of claim 27, and is not relied on by the Office Action to do so. Therefore, claims 30-33 are patentable over the cited combination of Schone, Kramer, Marcus, and Hoyes, for at least the reasons provided above with respect to claim 27. Applicant respectfully requests that the rejection of claims 30-33 be reconsidered and withdrawn.

Claim 39 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Schone in view of Marcus.

Claim 39 depends from claim 23. As previously discussed, neither Schone, nor Marcus, nor the combination of the two, discloses or suggests a method of incorporating zeolite in a tampon, wherein the zeolite is the sole odor-absorbing material incorporated into the tampon, as required by claim 23. Therefore, for at least the reasons provided above in support of the patentability of claim 23, claim 39 is also patentable over Schone in view of Marcus. Applicant respectfully requests that the rejection of claim 39 be reconsidered and withdrawn.

In view of the above, it is respectfully submitted that the present application is in condition for allowance. Such action is solicited.

Respectfully submitted,

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A handwritten signature in dark ink, appearing to read 'Ned McMahon', is written over a horizontal line.

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